

REMARKS

Claims 1-6, 8-11, and 17-18 are pending in this application. Claims 7 and 12-16 were previously cancelled. Claim 9 is cancelled herein.

Claims 1-3, 6, 8, 9 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Treleaven *et al.* (U.S. Patent 6,213,520). Further, Claims 4, 5, 10, 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treleaven *et al.* in view of Mezquita (U.S. Patent No. 3,890,449). In the Office Action, the Examiner avers that "Treleaven *et al.* discloses a label for a beverage bottle. The label has a raised portion for a three dimensional effect leaving a vacancy between the label and the surface of the container. The label is affixed to the container by an adhesive means on a flat portion of the label adjacent to the bottle surface." (See Office Action, page 2).

On June 23, 2004, representatives for the Applicant (i.e., Messrs Olsen and Christian) held a telephonic interview with the Examiner to discuss the proposed claim amendment that Applicant submitted to the Examiner on May 3, 2004. In the interview a tentative agreement was believed to be reached wherein said proposed amendment avoids the cited art. The language of the proposed amendment is incorporate herein.

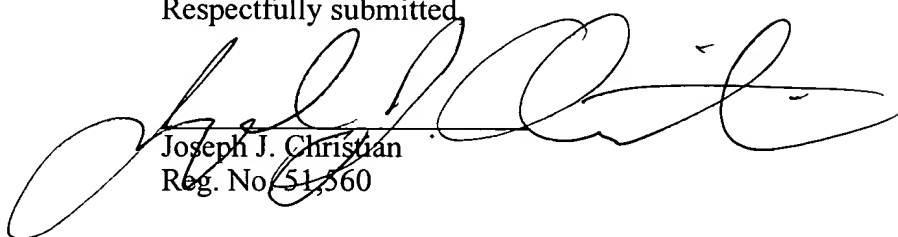
Applicant respectfully traverses the rejection of independent claims 1, 6, and 17 under Treleaven, in that Treleaven does not teach, each and every aspect of the independent claims, as amended. For example, *inter alia*, Treleaven does not teach or suggest, "a clear material with a graphic template formed on a bottom surface thereof, wherein the graphic template is configured to form a raised portion ," as disclosed in claim 1. Further, Treleaven does not teach or suggest, "a flat portion of said label, wherein said flat portion is flush with the surface of the container; and an adhesive materiel only on the flat portion", as disclosed in claim 1, as amended. Similarly, Treleaven does not teach or suggest aspects in independent claim 6, such as "a three-dimensional design portion, wherein the three-dimensional design portion extends away from the surface of the container thereby having **only** a vacancy formed between."

(emphasis added). Nor does Treleven teach or suggest, “ wherein an adhesive material is attached to a portion of the label that is not the three-dimensional design portion”, as disclosed in claim 6. Also, Treleven does not teach or suggest, “a vacancy existing alone between said raised ornamental portion and said surface of the container,” as in claim 17. Similarly, Treleven does not teach or suggest similar aspects disclosed in amended claim 18. As is apparent in Treleven, any vacancies between label material and container surface include *other additional elements*, such as label folds, adhesive, and the like. Respectfully, based upon the aforementioned, Applicant contends that the rejections of claims 1, 6, 17, and 18 should be withdrawn.

Further, Applicant respectfully contends that Mezquita does not remedy the shortcomings of Treleven. Because Applicant contends independent claims 1, 6, 17, and 18 are in condition allowance, logic dictates that dependent claims 2-5, 8, 10-11 are similarly in condition for allowance.

Should the Examiner believe anything further is necessary in order to place the application in better condition for allowance, or if the Examiner believes that a telephone interview would be advantageous to resolve the issues presented, the Examiner is invited to contact the Applicant’s undersigned representative at the telephone number listed below.

Respectfully submitted,



Joseph J. Christian
Reg. No. 51,560

Date: June 28, 2004

Schmeiser, Olsen & Watts
3 Lear Jet Lane, Suite 201
Latham, NY 12110
(518)220-1850
jchristian@iplawusa.com